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ATTORNEYS AT LAW

TTAB

September 20, 2006

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VIA FIRST CLASS MAIL

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451



09-22-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #

Re: Notice of Opposition —
Title: Trend Micro Kabushiki Kaisha v. Deutsche Telekom AG
Mark: T FINANCE (& Design)
Serial No.: 78/219,684

Dear Sir:

Enclosed with this letter are the following: (1) Notice of Opposition; (2) a check in the amount of \$300.00 to oppose the goods in Class 9 *only*; and (3) Acknowledgement Card.

Please file the Notice of Opposition, and stamp and return the Acknowledgement Card. You are authorized to charge our Deposit Account No. 50-3937 for any fees which may be required that are not covered by the enclosed check.

Sincerely,

Jefferson F. Scher

JFS:sph
Enclosures

CERTIFICATE OF MAILING

I hereby certify that this paper and/or fee is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451 on September 20, 2006.

Deposited by: Suehay P. Hernandez

(Signature of person mailing paper and/or fee)

{00200741v1}

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In the Matter of
Trademark Application Serial No. 78/219,684
Published: May 23, 2006
Mark: t finance (& Design)
Class: 9 (*not opposing classes 16, 35, 36, 38, 41 and 42*)

Applicant.

Opposition No. _____

09/26/2006 HPHAM1 00000075 78219684
{00200767v1} 01 FC:6402 300.00 DP

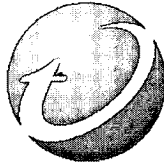
Opposer hereby opposes Applicant's application for t finance (& Design), alleging as grounds for its opposition that:

1. As is evidenced by the publication of the t finance (& Design) mark in the Official Gazette on pages 59-61 of the May 23, 2006 issue, Applicant Deutsche Telekom AG seeks to register a mark containing of a lower case letter t with an extended "tail" curving counter-clockwise on a circle design, accompanied by the word finance:



The Application encompasses a very wide variety of goods in Class 9, including, among other goods, "software for network access control and for creating and maintaining firewalls"; "computer software for ... network management"; "computer software for ... computer proxy"; "computer software programs for use in operating ... business management systems"; "computer software ... for the provision of online information services"; "computer programs for accessing a global computer network and interactive computer communications network"; "portable devices, namely laptops, handheld and pocket computers"; and "personal digital assistants." Applicant filed its application on February 27, 2003.

2. Opposer is the parent corporation of wholly owned subsidiary, Trend Micro Incorporated, a California corporation ("Trend Micro California"). Trend Micro California is responsible for Trend Micro-branded products and services in the United States. Opposer and Trend Micro California offer a wide variety of computer and network security products in connection with a mark consisting of a lower case letter T with an extended "tail" curving counter-clockwise on a circle design:



"T Ball Logo"

The T Ball Logo is and has been used in connection with software and hardware for a variety of computing and communication platforms, including servers, desktop computers, laptop computers, personal digital assistants, and mobile phones, as well as other goods and services.

3. Opposer owns United States Trademark Registration No. 2,913,480, for computer antivirus and related software in Class 9 and related computer services in Class 42, for the T Ball Logo:



"T Ball Logo"

The T Ball Logo application was filed April 24, 2001, and the mark has been in continuous use in commerce for the majority of the applied-for goods and services since March 1998. The Registration is valid and in good standing, and Opposer's use of the T Ball Logo pre-dates the earliest priority of Applicant's t finance (& Design) Application. The Registration is not limited to any particular colors. In addition, the "common law" rights of Opposer and Trend Micro California in the T Ball Logo pre-date the Application.

4. Opposer and Trend Micro California use a logo combining the T Ball Logo with the TREND MICRO mark in connection with software and hardware for a variety of computing and communication platforms, including servers, desktop computers, laptop computers, personal digital assistants, and mobile phones, as well as other goods and services:



"Composite Logo"

5. Trend Micro California owns United States Trademark Registration No. 2,402,444 for the Composite Logo, in connection with "computer utility software; computer antivirus software; computer network security software; computer software for use with electronic mail, local area network, internal corporate network, file, groupware application, and proxy servers; computer software for filtering information retrieved from computer networks, including global computer information networks; computer software for diagnosing and repairing computers and computer software; instruction manuals supplied as a unit with the foregoing," in International Class 9.



"Composite Logo"

The Composite Logo Registration is valid and in good standing, and has the priority of its February 23, 1998 filing date, prior to the earliest priority of the Applicant's finance (& Design) Application. The Registration is not limited to any particular colors. In addition, the "common law" rights of Opposer and Trend Micro California in the Composite Logo pre-date the Application.

6. Opposer and Trend Micro California are in the business of providing computer and network security solutions and services for business and home use. Beginning at least as early as 1998, Opposer has used the T Ball Logo and Composite Logo marks in connection with its goods and services. Opposer's nationwide use of its marks has been valid and continuous since their respective dates of first use, and said marks have not been abandoned. Opposer's T Ball Logo and Composite Logo marks have become well-known as identifying Opposer's goods and

services, and as a result, have become valuable assets of Opposer and the principal symbols of its goodwill.

7. Registration of the mark depicted in the drawing may damage Opposer and Trend Micro California by preventing them from making further registrations for the T Ball Logo and Combination Logo in connection with the applied-for goods, by casting doubt on the permissibility of their use of those marks in connection with the applied-for goods, and by misleading third parties as to the scope of their exclusive rights in relation to the T Ball Logo and Combination Logo.

8. The Application was filed on a Section 44(e) basis, requiring Applicant to aver that it has a *bona fide* intention to use the applied-for mark in commerce in connection with all of the goods and services in the Application. On information and belief, the scope of the identification of goods in the Application far exceeds the current business of the Applicant, and any realistic plans for the applied-for mark. The Application thus was infected by fraud from the time of filing, is void, and also should be denied registration on these grounds.

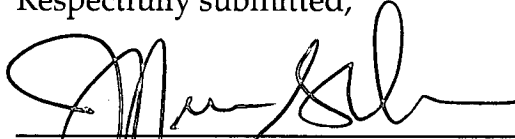
9. Registration of the mark for goods on which Applicant has no *bona fide* intention to use its mark may damage Opposer and Trend Micro California by preventing them from making further registrations for the T Ball Logo and Combination Logo in connection with the applied-for goods, by casting doubt on the permissibility of their use of those marks in connection with the applied-for goods, and by misleading third parties as to the scope of their exclusive rights in relation to the T Ball Logo and Combination Logo.

WHEREFORE, Opposer prays that this Notice of Opposition be sustained, that Applicant's Trademark Application Serial Number 78/219,684 be rejected, and that Applicant be denied registration of its t finance (& Design) as a trademark for the goods specified in that application.

Please address all correspondence regarding this matter to
Jefferson F. Scher, Carr & Ferrell LLP, 2200 Geng Road, Palo Alto, California, 94303.

The required fee under 37 C.F.R. §2.6(a)(17) of \$300.00 is enclosed
herewith. Should any additional fees be required to oppose the goods in Class 9 *only*,
please charge such necessary fees to our Deposit Account No. 50-3937.

Respectfully submitted,



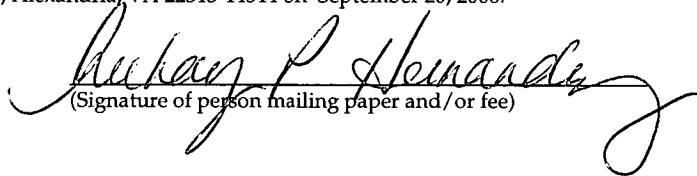
Dated: September 20, 2006

Jefferson F. Scher, Esq.
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